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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,666	12/20/2005	Richard Edmund Tostevin	920670-100963	7846
23644 7590 05/27/2008 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786			EXAMINER SWINEHART, EDWIN L	
			ART UNIT 3617	PAPER NUMBER
			NOTIFICATION DATE 05/27/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent-ch@btlaw.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/561,666	TOSTEVIN, RICHARD EDMUND	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ed Swinehart	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-33, 35-39, 41 and 45-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-33, 41, 45 and 46 is/are rejected.
- 7) ☒ Claim(s) 35-39 and 47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/5/2008 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-12,14-17,20-33,41,45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie.

Wilkie discloses the field of the invention, including a hull, a hollow mast mounted to the hull and including two side portions which extend laterally outwardly and upwardly of the hull, and are joined at the top, and an upwardly extending main spar attached near the apex of the mast.

Wilkie does not discuss the width of the mast relative to hull. As shown, the width of the mast is virtually the same as the maximum beam width.

It would have been well within the level of skill of the ordinary routineer working in the art, and obvious to one of ordinary skill in the art at the time of the invention to widen the mast of Wilkie such that it is wider than the hull width. Such would have provided

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exactly the results as expected. Wilkie clearly provides such an outward bowing of the mast for the same reason as in the present invention, so as to provide clearance for the boom/spar. Enhancing this clearance by increasing the degree of the bowing is not considered a patentable distinction in the art.

Such a combination would have been desirable so as to provide increased clearance for the spar.

Re claims 2-4, since applicant has seen fit to amend certain claims to define a "closed loop", it is assumed that claims 2-4 setting forth a "loop" do not require such to be closed, and therefore the mast of Wilkie meets such limitations.

Re claim 14, since the mast of Wilkie is removably accommodated in deck sockets, such in capable of movement to the orientation as claimed.

Re claim 16, once the mast is removed from the sockets, pivotal movement about the portions resting on the deck would be inherency.

Re claim 23, Wilkie specifically mentions alternative attachment to the bow, or a bowsprit.

Re claim 31, such is merely dependent upon the size of sail chosen, and is therefore considered to have been an obvious design consideration, well within the level of skill of the ordinary routineer working in the art at the time of the invention.

Re claim 33, again such is dependent on sail size, and such is treated as above.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie in view of Kunz.

Wilkie fails to show his hollow mast as being closed and filled with foam.

Kunz teaches the filling of a mast with foam.

It would have been obvious to one of ordinary skill in the art at the time of the invention to fill the mast of Wilkie with foam as taught by Kunz. Such a filling would inherently close the mast as well.

Such a combination would have been desirable so as to aid in recovery after overturning.

5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie in view of Stampe.

Wilkie fails to show stays.

Stampe teaches fore and aft stays for supporting the mast.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide supporting stays to the mast of Wilkie as taught by Stampe.

Such a combination would have been desirable so as to provide for the safety of the crew.

Re claim 19, provision of stay tensioners is notoriously old and well known in the art, and provision of such in the stays of Wilkie would have been obvious to the ordinary routineer working in the art at the time of the invention.

Such a modification would have been desirable so as to provide a means to compensate for stretched stays.

6. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkie in view of Prolss.

Wilkie fails to show the notoriously old and well known mast/boom configuration in which such are tapered from one end to the other, as illustrated by Prolss.

It would have been obvious to one of ordinary skill in the art at the time of the invention to taper the boom and mast of Wilkie as taught by Prolss.

Such a combination would have been desirable, since it is known that bending loads will lessen as progression from one end of the boom to the other occurs, and therefore the amount of material employed and therefore the weight of the boom can be reduced, as compared with a boom of constant diameter.

Re claim 26, such is inherent with a tapered component.

7. Claims 35-39 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments filed 5/5/2008 have been fully considered but they are not persuasive.

Applicant argues that the mast of Wilkie does not extend outwardly beyond the hull as now claimed.

The examiner agrees that the mast of Wilkie as shown may not extend outwardly beyond the hull as now claimed, however, a slight widening of the width would not have provided any unexpected results to the ordinary routineer working in the art at the time of the invention. If faced with a condition where undesirable contact of the boom and mast occurs, the solution of widening the mast would have been immediately recognized. Although the mast of Wilkie may not extend outwardly to the same degree

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as that of the present invention, figure 2 clearly shows a slight outward bowing of the mast such that it extends outwardly to an amount substantially equivalent to the widest beam of the hull.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Koreeda discloses a mast mounted to the hull and including a side portion which when rotated sufficiently will extend laterally outwardly of the hull, and such extends inwardly at the top.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Swinehart/  
Primary Examiner  
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